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Kathy Rutledge, Deputy Auditor
Stark County Auditor's Office
110 Central Plaza, South, Suite 220
Canton, Ohio 44702-1410

Re: Manufactured Home Tax
Our File No. M101.00281

Dear Ms. Rutledge:

Your e-mailed letter of February 13, 2006 to Kristen Bates has been referred to the undersigned for response. In your letter you have sought our opinion regarding the taxation of manufactured homes as personal property. You indicate that your office is reviewing its policy concerning homes which have been vacated and acquired (or re-acquired) by a dealer in such homes at various times during the year. These homes are currently treated as being subject to the manufactured homes tax, and not considered as appropriate for listing on the personal property tax filing of the dealer. Part of the reason for the current policy is the perceived difficulty in monitoring occupancy of units acquired in place (as opposed to being on a dealer's lot.) Thus, homes situated in a mobile home park are subjected to the manufactured homes tax even though they might be part of the inventory of a dealer in manufactured homes and would otherwise be subject to the personal property tax.

You have forwarded to us an e-mail containing the position of the Ohio Manufactured Homes Association to the effect that "homes that are in a retailer's inventory, regardless of the location of the home (e.g., home remains located in a manufactured home park), are not subject to the manufactured home tax under R.C. 4503.06." The e-mail contains a suggestion that county auditors having questions should call the Ohio Department of Taxation to discuss the issue with appropriate personnel there.

I have called the Ohio Department of Taxation and held such a discussion regarding this issue and can relay to you the department's position on the subject. First, let it be said that there is very little guidance in the Revised Code on this specific issue. The statutes simply impose taxes either as a manufactured home or as personal property. There is an exemption as noted in your letter.

(E) (1) A manufactured or mobile home is not subject to this section when any of the following applies:

a) It is taxable as personal property pursuant to 5709.01 of the Revised Code. Any manufactured or mobile home that is used as a

residence shall be subject to this section and shall not be taxable as personal property pursuant to 5709.01 of the Revised Code.

Therefore, if the manufactured home can truly be said to be part of a dealer's inventory, the dealer is entitled to have it taxed as personal property, not as a manufactured home.

I have confirmed with legal staff at the Ohio Department of Taxation that the personal property tax is indifferent to the location of an asset if it is truly part of a dealer's inventory. This view applies to manufactured homes. The auditor's verification problem might be remedied by having the dealer complete an affidavit indicating particular facts about a manufactured home for purposes of removing it from the manufactured home tax. Such an affidavit would contain relevant facts about the home, its occupancy, location, relevant dates, etc.

It has also been relayed to me by the Department that there is likely to be little advantage to the dealer in having the property removed from the manufactured homes tax list. This is because the changes to the manufactured homes tax which went into effect in 2000 do not provide for a proration back to the dealer of the manufactured homes tax after it attaches on the tax lien date. In other words, if the home is subject to the manufactured homes tax on January 1, the tax for the entire year is a lien and will be due when billed even if the home is listed as personal property later during the year. In fact, the dealer will be liable for all of the manufactured homes tax and such of the personal property tax as will apply to the home as being in inventory, which I understand is calculated monthly. If the home is in inventory on the tax lien date, no manufactured homes tax will be due until it is sold and relisted as subject to the manufactured homes tax. The result is that some dealers may maneuver transactions over the year end, but that homes will not ultimately escape taxation if they are sold during normal times of the year.

It appears then, that counsel for the Ohio Manufactured Homes Association may be correct, but that the ultimate result may have little effect on the taxation of the homes under current law. Our suggestion is that your office develop an affidavit to be completed by a dealer who desires to have a home taxed as personal property which will allow your office to point to evidence of the status of the home as personal property. At that point, the home can be taken off the manufactured homes list and taxed as personal property until such time as it is resold. It can then be returned to the manufactured homes tax list with relatively little loss in revenue.

I trust this answers your questions. If I may be of further service, please do not hesitate to write or call.

Very truly yours,



David M. Bridenstine
Assistant Prosecuting Attorney

DMB:dmb